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STATUTORY INSTRUMENTS

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**2002 No. 2626**

**MINISTERS OF THE CROWN**

**The Transfer of Functions (Transport, Local Government and the Regions) Order 2002**

<i>Made</i>	- - - -	<i>22nd October 2002</i>
<i>Laid before Parliament</i>		<i>4th November 2002</i>
<i>Coming into force</i>	- -	<i>25th November 2002</i>

At the Court at Buckingham Palace, the 22nd day of October 2002

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of sections 1 and 2 of the Ministers of the Crown Act 1975(1), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

***Preliminary***

**Citation and commencement**

1.—(1) This Order may be cited as the Transfer of Functions (Transport, Local Government and the Regions) Order 2002.

(2) This Order comes into force on 25th November 2002.

**Interpretation**

2.—(1) In this Order “instrument”, without prejudice to the generality of that expression, includes in particular Royal Charters, Royal Warrants, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents.

(2) In this Order a reference to a function of a Minister is to be read, in the case of a function which is exercisable by him jointly with another person or is otherwise shared by him with another person, as a reference to his share in that function.

(3) Any reference in this Order to the functions of a Minister under an enactment includes a reference to the functions of that Minister under an instrument having effect under that enactment.

### ***Incorporation of First Secretary of State***

#### **Incorporation of the First Secretary of State**

3.—(1) The person who at the coming into force of this Order is the First Secretary of State and any successor to that person shall be, by that name, a corporation sole.

(2) The corporate seal of the First Secretary of State shall—

- (a) be authenticated by the signature of a Secretary of State or a person authorised by a Secretary of State to act in that behalf, and
- (b) be officially and judicially noticed.

(3) Every document purporting to be an instrument made or issued by the First Secretary of State and to be—

- (a) sealed with his corporate seal authenticated in the manner provided by paragraph (2), or
- (b) signed or executed by a person authorised by a Secretary of State to act in that behalf,

shall be received in evidence and deemed to be so made or issued without further proof, unless the contrary is shown.

### ***Transfer of functions to the Secretary of State***

#### **Transfer of functions to the Secretary of State**

4. The functions of the Secretary of State for Transport, Local Government and the Regions under—

- (a) section 4 of the Local Government, Planning and Land Act 1980(2), and
- (b) section 74 of the Road Traffic Regulation Act 1984(3),

are hereby transferred to the Secretary of State.

### ***Transfer of joint highways functions***

#### **Transfer of joint highways functions**

5. The functions under sections 258 and 300(2) of the Highways Act 1980(4) and paragraphs 7, 8, 14, 15, 18, 19 and 21 of Schedule 1 to that Act, so far as exercisable by the Secretary of State for Transport, Local Government and the Regions and the Secretary of State acting jointly, are hereby transferred to the Secretary of State for the time being having general responsibility in transport matters in relation to England and (if different) the Secretary of State for the time being having general responsibility in planning matters in relation to England acting jointly.

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(2) 1980 c. 65.  
(3) 1984 c. 84.  
(4) 1980 c. 66.

### ***Transfers to the Secretary of State for Transport***

#### **Transfer of functions to the Secretary of State for Transport**

6.—(1) The functions of the Secretary of State for Transport, Local Government and the Regions under the New Forest Act 1949(5), the New Forest Act 1964(6) and the New Forest Act 1970(7) are hereby transferred to the Secretary of State for Transport.

(2) There are hereby transferred to the Secretary of State for Transport the functions conferred by the Town and Country Planning Act 1990(8) on the Secretary of State for Transport, Local Government and the Regions as “the appropriate Minister” under section 265(1)(d) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour, pier or lighthouse undertaking, the Civil Aviation Authority, a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000(9), or a relevant airport operator (within the meaning of Part 5 of the Airports Act 1986(10)).

#### **Transfer of property, rights and liabilities to Secretary of State for Transport**

7.—(1) All property, rights and liabilities to which the Secretary of State for Transport, Local Government and the Regions is entitled or subject at the coming into force of this Order in connection with the functions to which this article applies are hereby transferred to the Secretary of State for Transport.

(2) This article applies to—

- (a) the functions transferred by articles 4, 5 and 6, and
- (b) those functions which were entrusted to the Secretary of State for Transport, Local Government and the Regions immediately before 28th May 2002 and which have, before the making of this Order, been entrusted to the Secretary of State for Transport.

#### **Transfers to Secretary of State for Transport: supplementary**

8.—(1) This Order does not affect the validity of anything done before the coming into force of this Order by or in relation to the Secretary of State for Transport, Local Government and the Regions in connection with a function to which article 7 applies.

(2) Anything which has been, or has effect as if, done by or in relation to the Secretary of State for Transport, Local Government and the Regions in connection with—

- (a) a function to which article 7 applies, or
- (b) anything transferred by that article,

shall, so far as necessary for continuing its effect after the coming into force of this Order, have effect as if done by or in relation to the Secretary of State for Transport or, as the case may be, that Secretary of State and the First Secretary of State acting jointly.

(3) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the Secretary of State for Transport, Local Government and the Regions may, so far as it relates to—

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(5) 1949 c. 69.

(6) 1964 c. 83.

(7) 1970 c. 69. The functions exercisable under these Acts by the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly were transferred to the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Transport, Local Government and the Regions acting jointly by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794) art. 3(4).

(8) 1990 c. 8.

(9) 2000 c. 38.

(10) 1986 c. 31.

- (a) a function to which article 7 applies, or
- (b) anything transferred by that article,

be continued by or in relation to the Secretary of State for Transport or, as the case may be, that Secretary of State and the First Secretary of State acting jointly.

(4) So far as may be necessary for the purposes of or in consequence of the transfer or entrusting to the Secretary of State for Transport of a function to which article 7 applies, an enactment or instrument passed or made before the coming into force of this Order shall have effect as if—

- (a) any reference to the Secretary of State for Transport, Local Government and the Regions were a reference to the Secretary of State for Transport,
- (b) any reference to the Department for Transport, Local Government and the Regions were a reference to the Department for Transport, and
- (c) any reference to an officer of the Secretary of State for Transport, Local Government and the Regions were a reference to an officer of the Secretary of State for Transport.

The references to which this paragraph applies include any reference that is to be construed as a reference to the Secretary of State for Transport, Local Government and the Regions, to his Department or to an officer of his.

(5) Documents or forms printed for use in connection with a function to which article 7 applies may be used in connection with that function notwithstanding that they contain (or are to be construed as containing) references to the Secretary of State for Transport, Local Government and the Regions, to his Department or to an officer of his.

(6) For the purposes of the use of any such documents or forms after the coming into force of this Order, those references shall be construed as references to the Secretary of State for Transport, to his Department or to an officer of his.

### ***Transfers to the Secretary of State for Work and Pensions***

#### **Transfer of property, rights and liabilities to the Secretary of State for Work and Pensions**

9.—(1) All property, rights and liabilities to which the Secretary of State for Transport, Local Government and the Regions or the Secretary of State for Transport is entitled or subject at the coming into force of this Order in connection with the functions to which this article applies are hereby transferred to the Secretary of State for Work and Pensions.

(2) This article applies to the functions which were entrusted to the Secretary of State for Transport, Local Government and the Regions immediately before 28th May 2002 and which have, before the making of this Order, been entrusted to the Secretary of State for Work and Pensions (which include functions which were entrusted to the Secretary of State for Transport immediately before 24th July 2002).

#### **Transfers to the Secretary of State for Work and Pensions: supplementary**

10.—(1) This Order does not affect the validity of anything done before the coming into force of this Order by or in relation to the Secretary of State for Transport, Local Government and the Regions or the Secretary of State for Transport in connection with a function to which article 9 applies.

(2) Anything which has been, or has effect as if, done by or in relation to the Secretary of State for Transport, Local Government and the Regions or the Secretary of State for Transport in connection with—

- (a) a function to which article 9 applies, or
- (b) anything transferred by that article,

shall, so far as necessary for continuing its effect after the coming into force of this Order, have effect as if done by or in relation to the Secretary of State for Work and Pensions.

(3) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the Secretary of State for Transport Local Government and the Regions or the Secretary of State for Transport may, so far as it relates to—

- (a) a function to which article 9 applies, or
- (b) anything transferred by that article,

be continued by or in relation to the Secretary of State for Work and Pensions.

(4) So far as may be necessary for the purposes of or in consequence of the entrusting to the Secretary of State for Work and Pensions of any of the functions to which article 9 applies, an enactment or instrument passed or made before the coming into force of this Order shall have effect as if—

- (a) any reference to the Secretary of State for Transport, Local Government and the Regions or the Secretary of State for Transport were a reference to the Secretary of State for Work and Pensions,
- (b) any reference to the Department for Transport, Local Government and the Regions or the Department for Transport were a reference to the Department for Work and Pensions, and
- (c) any reference to an officer of the Secretary of State for Transport, Local Government and the Regions or of the Secretary of State for Transport were a reference to an officer of the Secretary of State for Work and Pensions.

The references to which this paragraph applies include any reference that is to be construed as a reference to the Secretary of State for Transport, Local Government and the Regions or the Secretary of State for Transport, to his Department or to an officer of his.

(5) Documents or forms printed for use in connection with any of the functions to which article 9 applies may be used in connection with that function notwithstanding that they contain (or are to be construed as containing) references to the Secretary of State for Transport, Local Government and the Regions or the Secretary of State for Transport, to his Department or to an officer of his.

(6) For the purposes of the use of any such documents or forms after the coming into force of this Order, those references shall be construed as references to the Secretary of State for Work and Pensions, to his Department or to an officer of his.

### ***Transfers to the Lord Chancellor***

#### **Functions to be exercisable by the Lord Chancellor**

**11.**—(1) The functions of the Secretary of State under the enactments listed in Schedule 1 shall be exercisable concurrently with the Lord Chancellor.

(2) The function of the Secretary of State for Transport, Local Government and the Regions under section 2(2)(b) of the Political Parties, Elections and Referendums Act 2000<sup>(11)</sup> (membership of Speaker's Committee) is hereby transferred to the Lord Chancellor.

#### **Transfer of property, rights and liabilities to the Lord Chancellor**

**12.**—(1) All property, rights and liabilities to which the Secretary of State for Transport, Local Government and the Regions is entitled or subject at the coming into force of this Order in connection with the functions to which this article applies are hereby transferred to the Lord Chancellor.

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(11) 2000 c. 41.

- (2) This article applies to—
- (a) the functions to which paragraph (1) of article 11 applies which, as regards their exercise by the Secretary of State, have, before the making of this Order, been entrusted to a Secretary of State other than the First Secretary of State, and
  - (b) the function transferred by paragraph (2) of that article.

**Transfers to the Lord Chancellor: supplementary**

13.—(1) This Order does not affect the validity of anything done before the coming into force of this Order by or in relation to the Secretary of State for Transport, Local Government and the Regions in connection with a function to which article 12 applies.

(2) Anything which has been, or has effect as if, done by or in relation to the Secretary of State for Transport, Local Government and the Regions in connection with—

- (a) a function to which article 12 applies, or
- (b) anything transferred by that article,

shall, so far as necessary for continuing its effect after the coming into force of this Order, have effect as if done by or in relation to the Lord Chancellor.

(3) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the Secretary of State for Transport, Local Government and the Regions may, so far as it relates to—

- (a) a function to which article 12 applies, or
- (b) anything transferred by that article,

be continued by or in relation to the Lord Chancellor.

(4) So far as may be necessary for the purposes of or in consequence of the transfer to the Lord Chancellor of a function to which article 12 applies, an enactment or instrument passed or made before the coming into force of this Order shall have effect as if—

- (a) any reference to the Secretary of State (but not a particular Secretary of State) or to his department or to an officer of his included a reference to the Lord Chancellor or to his department or to an officer of his,
- (b) any reference to the Secretary of State for Transport, Local Government and the Regions were a reference to the Lord Chancellor,
- (c) any reference to the Department for Transport, Local Government and the Regions were a reference to the Lord Chancellor's Department, and
- (d) any reference to an officer of the Secretary of State for Transport, Local Government and the Regions were a reference to an officer of the Lord Chancellor.

The references to which this paragraph applies include any reference that is to be construed as a reference to the Secretary of State or the Secretary of State for Transport, Local Government and the Regions, to his Department or to an officer of his.

(5) Documents or forms printed for use in connection with a function to which article 12 applies may be used in connection with that function notwithstanding that they contain (or are to be construed as containing) references to the Secretary of State for Transport, Local Government and the Regions, to his Department or to an officer of his.

(6) For the purposes of the use of any such documents or forms after the coming into force of this Order, those references shall be construed as references to the Lord Chancellor, to his Department or to an officer of his.

## ***Transfers to the First Secretary of State***

### **Transfer of functions to the First Secretary of State**

14. The functions of the Secretary of State for Transport, Local Government and the Regions other than those transferred by article 4, 5, 6 or 11(2) are hereby transferred to the First Secretary of State.

### **Transfer of property, rights and liabilities to First Secretary of State**

15. All property, rights and liabilities to which the Secretary of State for Transport, Local Government and the Regions is entitled or subject at the coming into force of this Order, other than property, rights or liabilities transferred by article 7, 9 or 12, are hereby transferred to the First Secretary of State.

### **Transfers to First Secretary of State: supplementary**

16.—(1) This article applies to—

- (a) the functions of the Secretary of State for Transport, Local Government and the Regions which are transferred by article 14, and
- (b) those functions which were entrusted to that Secretary of State immediately before 28th May 2002 and which have, before the making of this Order, been entrusted to the First Secretary of State.

(2) This Order does not affect the validity of anything done before the coming into force of this Order by or in relation to the Secretary of State for Transport, Local Government and the Regions in connection with a function to which this article applies.

(3) Anything which has been, or has effect as if, done by or in relation to the Secretary of State for Transport, Local Government and the Regions in connection with—

- (a) a function to which this article applies, or
- (b) anything transferred by article 15,

shall, so far as necessary for continuing its effect after the coming into force of this Order, have effect as if done by or in relation to the First Secretary of State.

(4) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the Secretary of State for Transport, Local Government and the Regions may, so far as it relates to—

- (a) a function to which this article applies, or
- (b) anything transferred by article 15,

be continued by or in relation to the First Secretary of State.

(5) So far as may be necessary for the purposes of or in consequence of the transfer or entrusting to the First Secretary of State of a function to which this article applies, an enactment or instrument passed or made before the coming into force of this Order shall have effect as if—

- (a) any reference to the Secretary of State for Transport, Local Government and the Regions were a reference to the First Secretary of State.
- (b) any reference to the Department for Transport, Local Government and the Regions were a reference to the Office of the Deputy Prime Minister, and
- (c) any reference to an officer of the Secretary of State for Transport, Local Government and the Regions were a reference to an officer of the First Secretary of State.

The references to which this paragraph applies include any reference that is to be construed as a reference to the Secretary of State for Transport, Local Government and the Regions, to his Department or to an officer of his.

(6) Documents or forms printed for use in connection with a function to which this article applies may be used in connection with that function notwithstanding that they contain (or are to be construed as containing) references to the Secretary of State for Transport, Local Government and the Regions, to his Department or to an officer of his.

(7) For the purposes of the use of any such documents or forms after the coming into force of this Order, those references shall be construed as references to the First Secretary of State, to the Office of the Deputy Prime Minister or to an officer of the First Secretary of State.

### *Immovable property outside the UK*

#### **Immovable property outside the United Kingdom**

17.—(1) The person from time to time holding office as the Secretary of State for Foreign and Commonwealth Affairs shall by virtue of that office—

- (a) be Secretary of State for the Environment, Transport and the Regions so long as any immovable property outside the United Kingdom remains vested in that Secretary of State,
- (b) be Secretary of State for the Environment so long as any such property remains vested in that Secretary of State<sup>(12)</sup>,
- (c) be Minister of Public Building and Works so long as any such property remains vested in that Minister<sup>(13)</sup>, and
- (d) be First Commissioner of Works so long as the Commissioners of Works have not been dissolved by Order in Council under the Minister of Works Act 1942<sup>(14)</sup>.

(2) Section 5(1) to (3) and (5) of the Minister of Works Act 1942 (as set out with adaptations in Schedule 2 to the Secretary of State for the Environment Order 1970<sup>(15)</sup>) shall continue to apply to the Secretary of State for Foreign and Commonwealth Affairs as Minister of Public Building and Works.

(3) Article 15 of the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001<sup>(16)</sup> is hereby revoked.

### *Minor and consequential provisions*

#### **Certification of instruments**

18.—(1) A certificate signed by the First Secretary of State that any instrument purporting to be made or issued by—

- (a) the First Secretary of State,
- (b) the Secretary of State for Transport, Local Government and the Regions,

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<sup>(12)</sup> By virtue of art. 4(3) of the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971.

<sup>(13)</sup> By virtue of the Secretary of State for the Environment Order 1970 (S.I. 1970/1681), all property, rights and liabilities of the Minister of Public Building and Works were transferred to the Secretary of State for the Environment except immovable property outside the United Kingdom to which the Minister was entitled and rights and liabilities in relation to that property. Art. 2(2) of that Order provides that the person holding office as Secretary of State for the Environment shall be Minister of Public Building and Works so long as any such property remains vested in that Minister.

<sup>(14)</sup> 1942 c. 23.

<sup>(15)</sup> S.I. 1970/1681.

<sup>(16)</sup> S.I. 2001/2568.



- (c) the Secretary of State for the Environment, Transport and the Regions,
- (d) the Secretary of State for the Environment, or
- (e) the Secretary of State for Transport,

was so made or issued shall be conclusive evidence of that fact.

(2) A certificate signed by the Secretary of State for Transport that any instrument purporting to be made or issued by—

- (a) the Secretary of State for Transport,
- (b) the Secretary of State for Transport, Local Government and the Regions, or
- (c) the Secretary of State for the Environment, Transport and the Regions,

was so made or issued shall be conclusive evidence of that fact.

### **Documentary Evidence Act 1868**

**19.** The Documentary Evidence Act 1868<sup>(17)</sup> shall apply in relation to the First Secretary of State and the Secretary of State for Transport—

- (a) as if references to orders and regulations included references to any document, and
- (b) as if the officers mentioned in column 2 of the Schedule included any officer authorised to act on behalf of the Secretary of State.

### **Consequential amendments**

**20.** The enactments mentioned in Schedule 2 to this Order shall have effect with the amendments specified in that Schedule.

*A. K. Galloway*  
Clerk of the Privy Council

## SCHEDULE 1

Article 11(1)

ENACTMENTS UNDER WHICH FUNCTIONS ARE TO BE EXERCISABLE BY  
THE SECRETARY OF STATE AND THE LORD CHANCELLOR CONCURRENTLY

The Representation of the People Act 1983(18), except sections 54 and 161 and rules 3(3) and 51(6) of Schedule 1.

The Representation of the People Act 1985(19), except sections 6 to 10.

The Parliamentary Constituencies Act 1986(20).

Schedule 4 to the Representation of the People Act 2000(21).

The Political Parties, Elections and Referendums Act 2000(22) except section 70.

The Election Publications Act 2001(23).

The European Parliamentary Elections Act 2002(24).

## SCHEDULE 2

Article 20

## CONSEQUENTIAL AMENDMENTS

**New Forest Act 1949 (c. 69)**

1.—(1) The New Forest Act 1949 is amended as follows.

(2) In section 16(25), in each of subsections (4), (7) and (9)(b), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

(3) In section 17(26), in each of subsections (3)(a) and (5), for “Secretary of State for Transport, Local Government and the Regions” substitute “Secretary of State for Transport”.

**Transport Act 1962 (c. 46)**

2. In section 86(6A) of the Transport Act 1962(27), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the First Secretary of State”.

**New Forest Act 1964 (c. 83)**

3. In section 4(3) of the New Forest Act 1964(28) for “Secretary of State for Transport, Local Government and the Regions” substitute “Secretary of State for Transport”.

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(18) 1983 c. 2.

(19) 1985 c. 50.

(20) 1986 c. 56.

(21) 2000 c. 2.

(22) 2000 c. 41.

(23) 2001 c. 5.

(24) 2002 c. 24.

(25) s.16(4), (7) and (9)(b) were amended by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2001, S.I. 2002/794, Sched.1, para. 8.

(26) s.17(3)(a) and (5) were amended by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2001, S.I. 2002/794, Sched.1, para. 9.

(27) s.86(6A) was inserted by the Secretary of State for the Environment Order 1970, S.I. 1970/1681, Sched. 3, para 20(2); and amended by the Secretary of State for Transport Order 1976, S.I. 1976/1775, art.6(1), Sched. 3, para. 6, the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., para. 1, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para.1.

(28) s.4(3) was amended by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2001, S.I. 2002/794, Sched. 1., para. 12.

### **Parliamentary Commissioner Act 1967 (c. 13)**

4. In Schedule 2 to the Parliamentary Commissioner Act 1967(29)—
- (a) for the entry relating to the Department for Transport, Local Government and the Regions substitute “Department for Transport”, and
  - (b) in the appropriate place insert “Office of the Deputy Prime Minister”.

### **Transport Act 1968 (c. 73)**

5. In section 137(7)(c) of the Transport Act 1968(30), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

### **New Forest Act 1970 (c. 69)**

6. In section 2(3) of the New Forest Act 1970(31), for “Secretary of State for Transport, Local Government and the Regions” substitute “Secretary of State for Transport”.

### **Courts Act 1971 (c. 23)**

7. In section 28 of the Courts Act 1971(32), for “Secretary of State for Transport, Local Government and the Regions” in both places substitute “First Secretary of State”.

### **Fair Trading Act 1973 (c. 41)**

8. In section 51(3) of the Fair Trading Act 1973(33), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

### **Local Government, Planning and Land Act 1980 (c. 65)**

9. In section 4 of the Local Government, Planning and Land Act 1980—
- (a) omit subsection (5)(34), and
  - (b) in subsection (6)(35), for “subsections (5) and” substitute “subsection”.

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(29) Sched.2 was substituted by the Parliamentary and Health Service Commissioners Act 1987 (c. 39) s.1(2), Sched. 1; the entry relating to the Department for Transport, Local Government and the Regions was inserted by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para. 2.

(30) S.137(7) was substituted by the Secretary of State for Transport Order 1976, S.I. 1976/1775, art. 6(1), Sched. 3, para. 8; and amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, Sched., para. 3 and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 3.

(31) s.2(3) was amended by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002, S.I. 2002/794, art. 5(1), Sched. 1, para. 17.

(32) s.28 was amended by the Planning (Consequential Provisions) Act 1990 (c. 11), s.4, Sched. 2, para. 25, the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., para. 4, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 4.

(33) s.51(3) was repealed in part by the Ministry of Posts and Telecommunications (Dissolution) Order 1974, S.I. 1974/691, art. 4(1), Sched; and amended by the Railways Act 1993 (c. 43), s.66(2), the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., para. 5, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I.2001/2568, art. 16, Sched., para. 5.

(34) s.4(5) was repealed in part by the London Regional Transport Act 1984 (c. 32), s.71(3), Sched.7; and amended by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para. 6.

(35) s.4(6) was amended by the Water Act 1989 (c. 15), s.190(1), Sched. 25, para. 61(1).

### **Representation of the People Act 1983 (c. 2)**

10. In Part 5 of the Representation of the People Act 1983, before section 200 insert—

#### **“Functions of the Lord Chancellor**

**199A.** In this Act, except—

- (a) sections 54 and 161 above, and
- (b) rules 3(3) and 51(6) of Schedule 1 to this Act,

“the Secretary of State” means the Secretary of State or the Lord Chancellor.”

### **Road Traffic Regulation Act 1984 (c. 27)**

11.—(1) The Road Traffic Regulation Act 1984 is amended as follows.

(2) In section 74(9), in the definition of “appropriate authority”, for “Secretary of State” substitute “minister”.

(3) In Schedule 5(36), for “The Secretary of State for Transport, Local Government and the Regions” in each place substitute “The Secretary of State”.

### **Representation of the People Act 1985 (c. 50)**

12. In section 27 of the Representation of the People Act 1985 (interpretation), after subsection (2) insert—

“(2A) But section 199A of the principal Act (functions of the Lord Chancellor) does not apply to section 10 of this Act.”

### **Airports Act 1986 (c. 31)**

13. In paragraph 1(2) of Schedule 2 to the Airports Act 1986(37), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

### **Parliamentary Constituencies Act 1986 (c. 56)**

14. In the Parliamentary Constituencies Act 1986, after section 6 insert—

#### **“Functions of the Lord Chancellor**

**6A.** In this Act, “the Secretary of State” means the Secretary of State or the Lord Chancellor.”

### **Town and Country Planning Act 1990 (c. 8)**

15.—(1) The Town and Country Planning Act 1990 is amended as follows.

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(36) Sched. 5 was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 6 and 8, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I.2001/2568, art. 16, Sched., para. 7.

(37) para 1(2) was repealed in part by the Planning (Consequential Provisions) Act 1990 (c. 11), s.3, Sched. 1, Pt1; and amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., para. 9, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 8.

(2) In section 228(38), for “Secretary of State for Transport, Local Government and the Regions” in both places substitute “First Secretary of State”.

(3) In section 245(1)(39), for “the Secretary of State for Transport, Local Government and the Regions” in both places substitute “the First Secretary of State”.

(4) In section 265(1)(40)—

(a) before paragraph (b) insert—

“(a) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour, pier or lighthouse undertaking, the Civil Aviation Authority, a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000, or a relevant airport operator (within the meaning of Part 5 of the Airports Act 1986), the Secretary of State for Transport;”, and

(b) for paragraph (d) substitute—

“(d) in relation to any other statutory undertakers, the First Secretary of State.”

(5) In paragraph 8(2) of Schedule 6(41), for “the Department for Transport, Local Government and the Regions” substitute “the Office of the Deputy Prime Minister”.

#### **Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)**

16. In paragraph 7(2) of Schedule 3 to the Planning (Listed Buildings and Conservation Areas) Act 1990(42), for “the Department for Transport, Local Government and the Regions” substitute “the Office of the Deputy Prime Minister”.

#### **Planning (Hazardous Substances) Act 1990 (c. 10)**

17. In paragraph 7(2) of the Schedule to the Planning (Hazardous Substances) Act 1990(43), for “the Department for Transport, Local Government and the Regions” substitute “the Office of the Deputy Prime Minister”.

#### **Water Resources Act 1991 (c. 57)**

18.—(1) The Water Resources Act 1991 is amended as follows.

(2) In section 21(3)(e)(44), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

(38) s.228 was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras 11 and 12, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 9.

(39) s.245(1) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras.11 and 13, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art.16, Sched., para. 9.

(40) In s.265(1), para. (a) was repealed and para. (d) amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., paras. 11 and 14, and para. (d) was further amended by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 9.

(41) para. 8(2) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 11 and 15, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 9.

(42) para. 7(2) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., para. 16, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 10.

(43) para. 7(2) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., para. 17, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 11.

(44) s.21(3)(e) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 18 and 19, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 12.

(3) In paragraph 2(3)(f) of Schedule 5(45), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

(4) In Schedule 6, in each of paragraphs 1(4)(g)(46) and 3(5)(47), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

### **Land Drainage Act 1991 (c. 59)**

19. In section 35(3)(b) of the Land Drainage Act 1991(48), for “the Secretary of Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

### **Transport and Works Act 1992 (c. 42)**

20. In section 23(10) of the Transport and Works Act 1992(49)—

(a) for “the Department for Transport, Local Government and the Regions” in the words before paragraph (a) substitute “the Office of the Deputy Prime Minister, the Department for Transport”, and

(b) for paragraph (a) substitute—

“(a) if he was appointed by the Secretary of State for the time being having general responsibility in transport matters in relation to England, as functions of the Department for Transport;

(b) if he was appointed by the Secretary of State for the time being having general responsibility in planning matters in relation to England, as functions of the Office of the Deputy Prime Minister;”.

### *Channel Tunnel Rail Link Act 1996 (c. 61)*

21.—(1) The Channel Tunnel Rail Link Act 1996 is amended as follows.

(2) In section 29(4)(50), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

(3) In section 50(5)(b)(51), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

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(45) s.21(3)(f) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 18 and 20, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 12.

(46) para. 1(4)(g) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 18 and 21, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 12.

(47) para. 3(5) was amended by the Environment Act 1995 (c. 25), s.120, Sched. 22, para. 128, and the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 18 and 21, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 12.

(48) s.35(3)(b) was amended by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 13.

(49) s.23(10) was amended and para.(a) substituted by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., para. 23; s23(10) was further amended by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 14.

(50) s.29(4) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 25 and 27, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 15.

(51) s.50(5)(b) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 25 and 29, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 15.

(4) In paragraph 2(12) of Schedule 3(52), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

(5) In paragraph 5(5)(a) of Schedule 7(53), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

(6) In paragraph 13 of Schedule 14(54), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

(7) In paragraph 2(4)(a) of Part 2 of Schedule 15(55), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

*Town and Country Planning (Scotland) Act 1997 (c. 8)*

22. In Schedule 7 to the Town and Country Planning (Scotland) Act 1997(56), in each of paragraphs 3(8) and 8(4)(b), for “the Secretary of State for Transport, Local Government and the Regions” substitute “the Secretary of State for Transport”.

*National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672)*

23. In the entry relating to the Water Resources Act 1991 in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, for paragraph (d) (functions referring to the Secretary of State for Transport, Local Government and the Regions)(57) substitute—

“(d) any function which is expressly referred to in this Act as a function of the Secretary of State for Transport.”

*Regulation of Investigatory Powers Act 2000 (c. 23)*

24. In Part 1 of Schedule 1 to the Regulation of Investigatory Powers Act 2000(58)—

(a) the entry relating to the Department for Transport, Local Government and the Regions is repealed;

(b) in the appropriate places insert—

“The Department for Transport”

“the Office of the Deputy Prime Minister”.

*Political Parties, Elections and Referendums Act 2000 (c. 41)*

25.—(1) The Political Parties, Elections and Referendums Act 2000 is amended as follows.

(52) para. 2(12) was inserted by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 15(4)(f).

(53) para 5(5) was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 25 and 33, and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 15.

(54) para. 13 was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 25 and 34 and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 15.

(55) para. 2(4)(a) was substituted by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art. 6(1), Sched., paras. 25 and 35; and amended by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 15.

(56) Sched. 7 was amended by the Secretary of State for the Environment, Transport and the Regions Order 1997, S.I. 1997/2971, art.6(1), Sched., paras. 38 and 40 and the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 16.

(57) para.(d) was substituted by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 17.

(58) Sched.1 was amended by the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, S.I. 2001/2568, art. 16, Sched., para. 18.

- (2) For paragraph (b) of section 2(2) (membership of Speaker’s Committee)(**59**), substitute—  
“(b) the Lord Chancellor;”.
- (3) After section 159 insert—

**“Functions of the Lord Chancellor**

**159A.** In this Act, except—

- (a) sections 9, 18(2) and (4) and 70, and
- (b) paragraph 7 of Schedule 9,

“the Secretary of State” means the Secretary of State or the Lord Chancellor.”

(4) In paragraph 2(1)(c) of Schedule 2 (Speaker’s Committee: term of office)(**60**), for “Secretary of State for Transport, Local Government and the Regions” substitute “Lord Chancellor”.

*Election Publications Act 2001 (c. 5)*

**26.** In section 2 of the Election Publications Act 2001, after “Secretary of State” in each place insert “or the Lord Chancellor”.

*European Parliamentary Elections Act 2002 (c. 24)*

**27.** In the European Parliamentary Elections Act 2002, before section 17 insert—

**“Functions of the Lord Chancellor**

**16A.** In this Act “the Secretary of State” means the Secretary of State or the Lord Chancellor.”

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order in Council is made under the Ministers of the Crown Act 1975.

Article 3 incorporates the First Secretary of State as a corporation sole. It also provides for the authentication of the corporate seal, the making of instruments by the First Secretary of State and related matters.

Article 4 transfers to the Secretary of State the functions of the Secretary of State for Transport, Local Government and the Regions under section 4 of the Local Government, Planning and Land Act 1980 and section 74 of the Road Traffic Regulation Act 1984.

Article 5 transfers to the Secretary of State for the time being having general responsibility in transport matters in relation to England and (if different) the Secretary of State for the time being having general responsibility in planning matters in relation to England, acting jointly, the functions

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(**59**) s.2(2)(b) was amended by the Transfer of Functions (Miscellaneous) Order 2001, S.I. 2001/3500, art. 8, Sched. 2, para. 9(1).  
(**60**) para. 2(1)(c) was amended by the Transfer of Functions (miscellaneous) Order 2001, S.I. 2001/3500, art. 8, Sched. 2, para. 9(2).



under sections 258 and 300(2) of the Highways Act 1980 and paragraphs 7, 8, 14, 15, 18, 19 and 21 of Schedule 1 to that Act, so far as exercisable by the Secretary of State for Transport, Local Government and the Regions and the Secretary of State, acting jointly.

Article 6 transfers to the Secretary of State for Transport the functions of the Secretary of State for Transport, Local Government and the Regions under the New Forest Acts 1949, 1964 and 1970. It also transfers to the Secretary of State for Transport the functions conferred by the Town and Country Planning Act 1990 on the Secretary of State for Transport, Local Government and the Regions as “the appropriate Minister” under section 265(1)(d) in relation to statutory undertakers carrying on any railway, light railway, tramway, road transport, dock, harbour, pier or lighthouse undertaking, the Civil Aviation Authority, a person who holds a licence under Chapter I of Part 1 of the Transport Act 2000 (air traffic services) or a relevant airport operator (within the meaning of Part 5 of the Airports Act 1986).

Article 7 transfers to the Secretary of State for Transport property, rights and liabilities of the Secretary of State for Transport, Local Government and the Regions connected with the functions transferred by articles 4 to 6 and other transport-related functions entrusted to the Secretary of State for Transport after 27th May 2002 and before the making of this Order.

Article 8 makes supplementary provision for continuity in relation to the exercise of functions to which article 7 applies and anything transferred by that article.

Article 9 transfers to the Secretary of State for Work and Pensions property, rights and liabilities of the Secretary of State for Transport, Local Government and the Regions or the Secretary of State for Transport connected with certain functions relating to health and safety matters. Those functions were entrusted to the Secretary of State for Transport, Local Government and the Regions immediately before 28th May 2002, and have been entrusted to the Secretary of State for Work and Pensions before the making of this Order. They include functions entrusted to the Secretary of State for Transport immediately before 24th July 2002.

Article 10 makes supplementary provision for continuity in relation to the exercise of functions to which article 9 applies and anything transferred by that article.

Article 11, to which Schedule 1 is relevant, provides for functions of the Secretary of State under the Representation of the People Act 1983 (except sections 54 and 161 and rules 3(3) and 51(6) of Schedule 1), the Representation of the People Act 1985 (except sections 6 to 10), the Parliamentary Constituencies Act 1986, Schedule 4 to the Representation of the People Act 2000, the Political Parties, Elections and Referendums Act 2000 (except section 70), the Election Publications Act 2001 and the European Parliamentary Elections Act 2002, to be exercisable concurrently with the Lord Chancellor. It also provides for the transfer to the Lord Chancellor of the function of the Secretary of State for Transport, Local Government and the Regions under section 2(2)(b) of the Political Parties, Elections and Referendums Act 2000 (membership of the Speaker’s Committee).

Article 12 transfers to the Lord Chancellor property, rights and liabilities of the Secretary of State for Transport, Local Government and the Regions connected with the function transferred by article 11(2) and functions under the enactments listed in Schedule 1.

Article 13 makes supplementary provision for continuity in relation to the exercise of functions to which article 12 applies and anything transferred by that article.

Article 14 provides for the transfer to the First Secretary of State of functions of the Secretary of State for Transport, Local Government and the Regions other than those transferred by article 4, 5, 6 or 11(2). The functions transferred to the First Secretary of State by this article relate, broadly, to the fire service, housing, local government (including local government elections and referendums), regional development and town and country planning.

Article 15 provides for the transfer to the First Secretary of State of property, rights and liabilities of the Secretary of State for Transport, Local Government and the Regions other than property, rights and liabilities transferred by article 7, 9 or 12.

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Article 16 makes supplementary provision for continuity in relation to the exercise of functions transferred by article 14, other functions entrusted to the Secretary of State for Transport, Local Government and the Regions before 28th May 2002 and entrusted to the First Secretary of State before the making of this Order, and anything transferred by article 15.

Article 17 makes provision in relation to immovable property outside the United Kingdom. The effect of paragraphs (1) and (2) is to enable the person from time to time holding office as the Secretary of State for Foreign and Commonwealth Affairs to deal with any such property so long as it remains vested in the Secretary of State for the Environment, Transport and the Regions, the Secretary of State for the Environment, the Minister of Public Building and Works or the First Commissioner of Works. Paragraph (3) revokes article 15 of the Secretaries of State for Transport, Local Government and the Regions and for Environment, Food and Rural Affairs Order 2001, which enabled the Secretary of State for Transport, Local Government and the Regions to deal with immovable property outside the United Kingdom vested as mentioned above.

Article 18 provides for the certification of instruments (defined in article 2(1)) by the First Secretary of State and the Secretary of State for Transport.

Article 19 provides for the application of the Documentary Evidence Act 1868 in relation to the First Secretary of State and the Secretary of State for Transport.

Article 20 and Schedule 2 amend enactments consequentially on the transfers effected by this Order. Nothing in this Order alters the functions of the National Assembly for Wales.